

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO:** School Corporation Officials

**FROM:** Courtney L. Schaafsma, Commissioner

**SUBJECT:** School Corporation Waiver from the Implementation of Protected Taxes

**DATE:** April 13, 2015

On March 25, 2014, Governor Mike Pence signed House Enrolled Act 1062 ("HEA 1062") into law. Section 3 of HEA 1062 adds IC 6-1.1-20.6-9.9 to allow certain school corporations a waiver from the implementation of protected taxes under IC 6-1.1-20.6-9.8 for 2014, 2015 or 2016 as applicable. This memorandum details the process that needs to be completed in order to take part in this waiver.

Under IC 6-1.1-20.6-9.8, implementation of protected taxes provisions went into effect for Pay 2014. Protected taxes are designed to ensure sufficient tax collections in a taxing unit's debt service funds in order to meet debt service obligations. In order to "protect" the debt service funds, the circuit breaker credits attributable to the tax rate for the debt service funds are applied against a taxing unit's unprotected or non-debt service funds.

Under IC 6-1.1-20.6-9.9, a school corporation can determine its eligibility to waive the implementation of protected taxes for 2014, 2015 or 2016. School corporations that are eligible for the waiver in a given year will be allowed to allocate their 1%/2%/3% circuit breaker credits proportionally across all funds that are not exempt from circuit breaker credits without regard for whether the fund is a debt service fund. Only exempt (voter-approved referendum) funds are excluded from the application of 1%/2%/3% circuit breaker credits. Exempt funds are not excluded from the application of the Over 65 credits provided for in IC 6-1.1-20.6-8.5. This means debt service funds will be allowed to experience a loss associated with 1%/2%/3% circuit breaker credits for those school corporations that are eligible for and timely request the waiver from the implementation of protected taxes.

To determine if a school corporation is eligible for a waiver from the implementation of protected taxes, a school corporation should prepare the following analysis:

1. Determine the amount of circuit breaker credits being applied to the school's transportation fund. This amount should be calculated assuming protected taxes are in place for the school corporation. To determine this amount, the school corporation can use the Department of Local Government Finance's (Department) circuit breaker reports. These reports can be found on the Department's webpage at <http://www.in.gov/dlgf/9465.htm>. The values computed for these reports assume the implementation of protected taxes for the school corporation's funds. The school corporation can utilize the circuit breaker credit amount shown for its transportation fund. The school corporation may only use a report for the applicable year in which the waiver would apply. **Reports from prior years may not be used.**
2. Determine the amount of the transportation fund levy for the school corporation. This should equal the certified levy for the school transportation fund from the 2015 Budget Order. The certified levy is also shown on the circuit breaker report for easy reference.

3. Divide the circuit breaker credit amount by the transportation fund levy and express it as a percentage. If the circuit breaker loss equals at least 10% of the transportation fund levy, the school corporation is eligible for a waiver from the implementation of protected taxes. In order to qualify, this calculation must show a loss of at least 10%. **Rounding up the calculation in order to achieve 10% will be not accepted.**

A school corporation that is an eligible school corporation and would like to waive the implementation of protected taxes must submit a written request to the Department for a certification that the school corporation's calculation is correct. This written request must be provided to the Department by May 1 of the year in which the school corporation wants the waiver from the implementation of protected taxes. In order to facilitate the calculation detailed above and the written request by the school corporation, the Department has prepared a standard form for the written request. This form is attached to this memorandum. A school corporation desiring to be determined to be eligible for the waiver from the implementation of protected taxes should complete this form and email it to David Marusarz at [dmarusarz@dlgf.in.gov](mailto:dmarusarz@dlgf.in.gov). This form must be received by May 1. It is recommended, but not required, that a form be accompanied with a school board resolution or similar action authorizing submission of the application. **Any written request received by the Department after May 1 will not be accepted.**

After receiving a written request from a school corporation, the Department shall determine whether the percentage computed by the school corporation is accurate and whether the school corporation is eligible for the waiver from the implementation of protected taxes. The Department must complete its actions by June 1 of the year for which the waiver is requested.

Indiana Code 6-1.1-20.6-9.9 allows for a waiver to be granted for taxes payable in 2014, 2015, and 2016. A school corporation that is approved in one year for a waiver must submit a written request and calculation again in each future year in order to qualify. As an example, if a school corporation received a waiver in 2014, it must submit a written request again by May 1, 2015 using 2015 circuit breaker credit and levy information in order to qualify for the waiver in 2015. Each waiver applies only to one applicable tax year.

For those school corporations that have submitted a written request and that the Department has determined to be eligible for the waiver from the implementation of protected taxes, additional steps will be necessary when the school corporation receives its tax distributions in June and December. The school corporation will be responsible for reallocating its tax distribution among the appropriate funds in order to eliminate the impact of protected taxes. Further information and guidance on this process will be provided by the Department in advance of the June tax distributions.

A school corporation should submit this request only if it intends to proceed with the waiver. A school that submits a request but later rescinds it could delay or disrupt its 2016 budget certification. School corporations are highly encouraged to review their financial situation, work with their financial advisors or confer with the Department about how the mechanics of waiving protected taxes will affect the school corporations' other funds, before submitting their requests.

If you have any questions on the process outlined above, please contact David Marusarz, Staff Attorney, at 317-233-6770 or [dmarusarz@dlgf.in.gov](mailto:dmarusarz@dlgf.in.gov).

**WRITTEN REQUEST FOR WAIVER FROM IMPLEMENTATION  
OF PROTECTED TAXES UNDER IC 6-1.1-20.6-9.9  
FOR TAXES PAYABLE IN 2015**

School Corporation: \_\_\_\_\_

County: \_\_\_\_\_  
(Include all counties if cross-county)

School Corporation's Calculation of Eligibility Pursuant to IC 6-1.1-20.6-9.9:

All data included in the calculation below should be based on the year for which the waiver is being requested.

Circuit Breaker Credits Applied to School  
Corporation's Transportation Fund

School Corporation's Transportation Fund  
Certified Levy

Transportation Fund Circuit Breaker Credits as a  
Percent of the Transportation Fund Certified Levy

- (1) Circuit breaker credits for the school transportation fund can be found on the Department's circuit breaker report at <http://www.in.gov/dlgf/9465.htm>. Cross-county school corporations should sum the circuit breaker credits from each of the applicable county circuit breaker reports to arrive at a total amount of credits for the transportation fund.
- (2) Certified levy for the school transportation fund can be found on the County Budget Order or can be found on the circuit breaker reports. Cross-county school corporations should sum the certified levy from each of the applicable county budget orders or reports to arrive at a total certified levy for the transportation fund.
- (3) To be eligible, circuit breaker credits must equal at least 10% of the transportation fund's certified levy.

**Rounding up to arrive at 10% will not be accepted.**

On behalf of the school corporation identified above, by signing below, I certify that I have authority from the school corporation's board to submit this written request and, if determined to be eligible, to make adjustments to the school corporation's tax distributions as needed to effectuate the waiver from the implementation of protected taxes in the year identified above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Please email completed form to David Marusarz at [dmarusarz@dlgf.in.gov](mailto:dmarusarz@dlgf.in.gov) by May 1.